

1 LAWRENCE BREWSTER, Regional Solicitor
2 DAVID M. KAHN, Counsel for Employment Standards
3 California State Bar Number 230957
4 United States Department of Labor
5 Office of the Solicitor
90 Seventh Street, Suite 3-700
San Francisco, CA 94103
Telephone: (415) 625-7756
Facsimile: (415) 625-7772
email: kahn.david.m@dol.gov

6 Attorneys for Plaintiff, Hilda L. Solis, Secretary
7 United States Department of Labor

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

11 HILDA L. SOLIS, Secretary of Labor,) Case No.: 4:09-cv-04613-CW
12 United States Department of Labor,)
13 Plaintiff,) CONSENT JUDGMENT
14 v.)
15 MT. DIABLO FLOORING SYSTEMS,)
16 INC., a corporation; GLADSTONE)
17 JONES, an individual; and DAMIAN)
18 JONES, an individual,)
19 Defendants.)

21 Plaintiff, Hilda L. Solis, Secretary of Labor, United States Department of
22 Labor (the “Secretary”) having filed her complaint, and Defendants, Mt. Diablo
23 Flooring Systems, Inc., Gladstone Jones, and Damian Jones, having waived answer
24 of the complaint, and having been duly advised on the proceedings, and having
25 agreed to the entry of this Consent Judgment in settlement of this case without
contest.

1 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that
2 pursuant to Section 17 of the Fair Labor Standards Act of 1938, as amended, 29
3 U.S.C. § 201 *et seq.*, (hereafter the “Act” or the “FLSA”), that Defendants, their
4 officers, agents, servants, employees, and all persons in active concert or
5 participation with them be, and they hereby are, permanently enjoined and
6 restrained from violating the provisions of the Act, in any of the following
7 manners:

8 1. Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act,
9 employ any of their employees who in any workweek are engaged in commerce or
10 the production of goods for commerce, or who are employed in an enterprise
11 engaged in commerce or in the production of goods for commerce, within the
12 meaning of the Act, for workweeks longer than forty hours, unless such employee
13 receives compensation for his employment in excess of forty hours at a rate not
14 less than one and one-half times the regular rates at which he is employed.

15 2. Defendants shall not fail to make, keep and preserve records of their
16 employees and of the wages, hours, and other conditions and practices of
17 employment maintained by them as prescribed by the regulations issued, and from
18 time to time amended, pursuant to section 11(c) of the Act and found in 29 CFR
19 Part 516.

20 3. Defendants shall not withhold payment of \$34,314.45 which
21 represents the unpaid minimum wage and overtime compensation hereby found to
22 be due, for the period from August 22, 2006, through August 21, 2008, to the
23 present and former employees named in Exhibit A, attached hereto and made a part
24 hereof, in the amounts set forth therein.

25

1 4. The provisions of paragraph 3 of this Consent Judgment shall be
2 satisfied by Defendants having delivered to the Secretary's representative the
3 following:

4 a. A schedule in duplicate showing the name, last known address,
5 social security number, gross amount of wages due (i.e. the amounts shown as
6 "Back Wages Due" on Exhibit A hereto), amounts deducted from gross wages for
7 each employee's share of social security and withholding taxes, and the net amount
8 of such payment for each employee named in Exhibit A.

9 b. Payment shall be in the form of a cashier's check made payable
10 to the order of the "Wage and Hour Div., Labor" and equal to the total net amount
11 due each employee named in Exhibit A after deducting the amount of legal
12 deductions as listed on the schedule referred to in subparagraph (a) above from the
13 gross amount of wages in the "Back Wages Due" column as listed opposite each
14 employee's name in Exhibit A attached.

15 c. The payment shall be made by mailing such check by certified
16 mail with the schedule hereinbefore described to the United States Department of
17 Labor, Office of the Solicitor, 90 Seventh Street, Suite 3-700, San Francisco,
18 California 94103.

19 5. The amount so paid shall be used by the Secretary to satisfy the
20 obligations imposed under the provisions of Section 17 of the FLSA, 29 U.S.C. §
21 217, and shall be distributed to the employees named and in the amount set forth in
22 Exhibit A to this Consent Judgment (or to their heirs or estates). Any monies not
23 distributed by the Wage and Hour Division because of a failure to locate an
24 employee or because of an employee's refusal to accept said distribution shall be
25 deposited with the Treasurer of the United States, pursuant to 28 U.S.C. § 2041.

1 6. Each party shall bear all fees and other expenses (including court
2 costs) incurred by such party in connection with any stage of this proceeding to
3 date.

4 ORDERED that this Court shall retain jurisdiction of this action for purposes
5 of enforcing compliance with the terms of this Consent Judgment.

Charlotte Witt

U.S. DISTRICT JUDGE

Defendants hereby consent to the entry
of this judgment on this 8th day of
December, 2009.

Dated: December 10, 2009

DEBORAH GREENFIELD
Acting Deputy Solicitor

LAWRENCE BREWSTER
Regional Solicitor

16 GLADSTONE JONES, Individually
17 and on behalf of Mt. Diablo Flooring
Systems, Inc.

David M. Kahn
DAVID M. KAHN
Counsel for Employment Standards

18 *Damian Jones*
19 DAMIAN JONES, Individually

Attorneys for U.S. Department of Labor

EXHIBIT A

<u>Employee</u>	<u>Back Wages Due</u>
Edgar A. Alvarado	\$883.02
Miguel R. Barajas	588.79
Ken L. Carlson	214.11
Alejandro Damian	875.14
Fernando P. Damian	878.20
Gabriel P. Damian	472.84
Gabriel V. Damian	2,983.66
Luis E. Damian	495.63
Juan P. Galan	405.48
Eduardo Hernandez	367.51
Jaime Hernandez	636.96
Jesse Hernandez	49.03
Jesus Hernandez	3,042.73
Victor R. Hernandez	1,826.75
Jesus G. Mendoza	1,409.93
Luis R. Mendoza	2,940.20
Humberto G. Millian	449.84
Arturo Moreno	182.75
Arthur Scott Myers	65.09
Jose G. Perez	489.56
Pablo Perez	1,778.32
Jorge G. Ramirez	72.70
Salvodor R. Rico	505.43
Francisco M. Rodriguez	1,572.17
Hugo Salazar	3,449.15
Jorge V. Salazar	67.24
Miguel M. Salazar	2,757.07
Benjamin Serrano	851.42
Francisco Serrano	733.63
Ramon Trejo	2,189.69
Ramon Trejo Jr.	1,080.41
Total Due: \$34,314.45	